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in the first (lowest) cost quartile was approximately 93%. Many facilities were paid in excess of 100% of costs. Some facilities that received less than full cost coverage had requested that the Medicaid rate be lowered to their private pay rate. Clearly, payment rates in the aggregate were well within the zone of reasonableness.

The costs which must be incurred are linked not only to efficient and economic operation, but also to care and services in conformity with Federal and State quality and safety standards. We, therefore, reviewed the quality of care provided to residents as measured by the numbers of deficiencies or decertifications. There has been no increase in either measurement under this payment methodology. In discussions with representatives of the Kansas Department of Health and Environment, there has been no overall decrease in the level of care provided.

The implicit definition of efficiently and economically operated facilities contained in the standards of our plan methodology identifies those facilities who, in prospective terms, would have been deemed to be efficiently and economically operated at the time by using cost reports and utilizing these facility parameters:

- 85% or greater occupancy,
- costs under all cost center percentile caps,
- cost increases at or under the statewide average,
- qualifying for the maximum incentive factor, and
- owner/administrator salaries below the limit.

This identification is for a point in time, whereas the analysis of cost coverage spans the continuum of operation of the facility. It is anticipated when rates are calculated using the point in time identification, they will be adequate to cover costs which must be incurred by facilities that maintain efficient and economic operations throughout the rate payment period. These efficient and economic operations include: maintaining occupancy levels, maintaining costs below the subsequent rate period cost center calculations, and maintaining administrative and plant operating

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costs at or below the 35th percentile to insure receipt of the maximum incentive factor.

We have continued the retrospective review to include an application of the implicit definition. See Attachment E. The State identifies as efficiently and economically operated any facility that:

- had calendar year 1991 costs below all cost center limits;
- had calendar year 1992 costs below all cost center limits;
- had facility increases in per resident day costs between calendar year 1991 and calendar year 1992 at or below the statewide average;
- had received the \$.50 incentive factor both years based on their administrative and plant operating costs;
- had occupancy of at least 85%; and
- had owner/administrator salaries under the limit.

"Costs which must be incurred" do not include (i) depreciation or (ii) costs that would be removed upon audit (on average, 4% of desk-reviewed costs).

Twenty-seven facilities met the foregoing test of efficiency and economy. These facilities received rates under TN 92-22 sufficient to pay at least 100% of their desk-reviewed allowable costs less depreciation and a 4% audit adjustment.²

We believe that such analyses address and support your emphasized

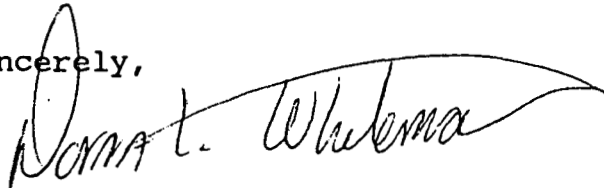
² A single period snapshot of facilities operating sufficiently "economically" (even though some may have particular inefficiencies or may not qualify for incentive factor) to receive their full costs which they must have incurred (and even non-incurred costs such as non-funded depreciation) reveals even higher numbers. See the last attachment schedule of facilities receiving 96% or more for calendar year 1992. With a similar allowance for a potential 4% overstatement from unaudited costs, 87 facilities are identified.

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assurance requirement that State Plan TN-92-22 did operate to pay efficiently and economically operated facilities their cost which they must (over that time period) incur. We further believe more complete explanation has been given and supported that allowable costs are not necessarily "costs which must be incurred"-even for previously identified efficiently and economically operated facilities.

With this submission of additional documentation, we are requesting that TN 92-22 be approved. If you have questions, please contact Bill McDaniel, Administrator of Nursing Facility Reimbursement, at (913) 296-3981.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna L. Whiteman", written over a horizontal line.

Donna L. Whiteman
Secretary

Attachments

CC: Robert L. Epps
Joyce Sugrue
William McDaniel
W. John Badger
Bruce Roby
Phyllis Thompson
John Frieden



JOAN FINNEY, GOVERNOR OF THE STATE OF KANSAS

**KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES**

DONNA WHITEMAN, SECRETARY

July 29, 1992

Mr. Richard P. Brummel
Associate Regional Administrator
for Division of Medicaid
Room 227, Federal Office Building
601 East 12th Street
Kansas City, Missouri 64106

Dear Mr. Brummel:

In accordance with 42 CFR 447.253, the State Department of Social and Rehabilitation Services of Kansas submits the following assurances related to Kansas Medicaid payment for long term care services in nursing facilities (NFs) and NFs/Mental Health (MH). The requirements set forth in paragraphs (b) through (g) of this section are being met, the related information required by subsection 447.225 of this subpart is furnished herewith and the agency complies with all other requirements.

42 CFR 447.253(b) Findings

The State of Kansas, through this agency, does make findings to ensure that the rates used to reimburse providers satisfy the requirements of paragraph 447.253(b).

42 CFR 447.253(b)(1)(i) Payment Rates

The State of Kansas continues to pay nursing facilities and NFs/MH for long term care services in accordance with a state plan formula established through consultation with representatives of the corresponding provider groups. The rates are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated providers to provide the services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

In accordance with Section 4801(e)(1)(A) of OBRA 1990:

Payment rates to nursing facilities take into account the cost "including the costs of services required to maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title" and of nursing facilities compliance with the requirements of Section 1919(b) (other than paragraph (3)(F) thereof), (c) and (d).

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42 CFR 447.253(b)(2) Upper Payment Limits

The State of Kansas assures that the estimated average proposed Medicaid payment rate is reasonably expected to pay no more in the aggregate for nursing facility services than the amount that the agency reasonably estimates would be paid under the Medicare principles of reimbursement. There are no state operated nursing facilities. Therefore, 447.272(b) does not apply.

42 CFR 447.253(c) Provider Appeals

The State of Kansas in accordance with the federal regulations and with the Kansas Administrative Regulations, provides a fair hearing, appeal or exception procedure that allows for an administrative review and an appeal by the provider as to its payment rates.

42 CFR 447.253(d) Uniform Cost Reporting

Nursing facility and NFs/MH providers are required to file annual uniform cost reports in accordance with Attachment 4.19D, Part I, Methods and Standards for Establishing Payment Rates.

42 CFR 447.253(e) Audit Requirements

The State of Kansas performs a desk review on all cost reports within six months after receipt and provides for periodic field audits of the financial and statistical records of the participating providers.

42 CFR 447.253(f) Public Notices

Appropriate public notice has been given for the changes included in plan amendments when significant changes are proposed to methods and standards for setting payment rates.

42 CFR 447.253(g) Rates Paid

The rates paid through the State of Kansas have been determined in accordance with methods and standards specified in an approved Medicaid State Plan.

42 CFR 447.255 Related Information

	NF
Estimated Average Rate 7/1/92	\$ 50.99
Estimated Average Rate 10/1/91	48.23
Per Diem Increase	2.76
Average Percent Increase	5.7%

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Both the short-term and long-term effect of these changes are estimated to:

1. To maintain the availability of services on a statewide and geographic area basis.

There are approximately 417 licensed nursing facilities in the State of Kansas with at least one in every county. Of these, approximately 396, or 95%, are also certified to participate in the Medicaid Program. There are 24 licensed NFs/MH in the State of Kansas and 100% of them participate in the Medicaid Program. Beds are available in every area of the State and close coordination with the local and area SRS offices allows the agency to keep close track of vacancies.

2. To maintain the type of care furnished.

The type of care furnished should be maintained or improved for those recipients needing and receiving care in both the short and long term.

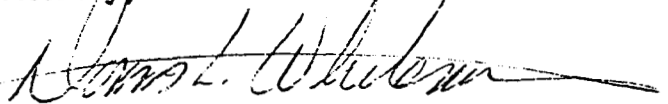
3. To maintain the extent of provider participation.

The extent of provider participation should not be affected by this change. Ninety-five percent of the available providers are already participating in the program.

The State of Kansas through this agency, does make assurances that its payment methodology is not reasonably expected to result in an increase in payments based solely on a change in ownership in excess of the increase that would result from application of section 1902(a) (13) (C) of the Social Security Act.

Questions may be directed to Tina Hayes at (913) 296-3981.

Sincerely,


Donna L. Whiteman
Secretary

DLW:RLE:JCS:TAH:pm

Enclosure

cc: Steve Otto

Refers to MS-92-22